

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

MED-DEN FUNDING, LLC,

Plaintiff,

vs.

B GRIGOROVICH D.D.S., INC.,

Defendant.

8:20CV223

**ORDER OF FINAL PRE-TRIAL
CONFERENCE**

A final pretrial conference was held on December 20, 2021. Appearing for the parties as counsel were:

Jason Mitchell for the plaintiff.

Armand Tinkerian for the defendant.

(A) Exhibits: **See attached Exhibit List.**

Caution: Upon express approval of the judge holding the pretrial conference for good cause shown, the parties may be authorized to defer listing of exhibits or objections until a later date to be specified by the judge holding the pretrial conference. The mere listing of an exhibit on an exhibit list by a party does not mean it can be offered into evidence by the adverse party without all necessary evidentiary prerequisites being met.

(B) Uncontroverted Facts. The parties have agreed that the following may be accepted as established facts for purposes of this case only:

1. The following patients of defendant applied for a loan with the plaintiff via the plaintiff's online application portal:

**Viktoriia Akademytska
Magaret Andriasian
Zanazan Bedrosian
Anastasiia Duniaka
Haraj Housepian
Andronik Hovhannisyan
Arman Martirosyan
Rafi George Shehirian
Yeranui Tutlyan
Oleh Yatsyshyn**

2. The patients provided the required information to Dr. Grigorovich who thereafter, on behalf of the patients, entered said personal and financial information into the plaintiff's online application portal:

Viktoriia Akademytska
Magaret Andriasian
Zanazan Bedrosian
Anastasiia Duniaka
Haraj Housepian
Andronik Hovhannisyan
Arman Martirosyan
Rafi George Shehirian
Yeranui Tutlyan
Oleh Yatsyshyn

3. The defendant directly received loan funds for ten separate loans issued to the following patients for the following amounts:

| | |
|------------------------|-------------|
| Viktoriia Akademytska: | \$7,658.50 |
| Magaret Andriasian: | \$52,305.00 |
| Zanazan Bedrosian: | \$47,122.05 |
| Anastasiia Duniaka: | \$37,041.45 |
| Haraj Housepian: | \$46,123.50 |
| Andronik Hovhannisyan: | \$52,614.75 |
| Arman Martirosyan: | \$52,171.86 |
| Rafi George Shehirian: | \$44,974.80 |
| Yeranui Tutlyan: | \$46,266.15 |
| Oleh Yatsyshyn: | \$8,297.25 |

(C) Controverted and Unresolved Issues. The issues remaining to be determined and unresolved matters for the court's attention are:

Fraud

1. Did Defendant make the claimed representation to plaintiff?
2. Was the representation false?
3. Was the Defendant's representation fraudulent?
4. Did the Defendant, when he made the representation, intend that the Plaintiff would rely on it?
5. Did the Plaintiff rely on the representation?
6. Was the Plaintiff's reliance on the representation justifiable?
7. Was the Plaintiff's reliance on the representation reasonable?
8. Was this representation the proximate cause of the Plaintiff's damages?

9. If Defendant provided false information to plaintiff, was such information material?
10. What patients were the cause of the Plaintiff's damages? How much was the damage to the Plaintiff for the aforementioned patients?

Breach of Contract

1. Was the contract terms clear enough so that the parties could understand what each was required to do?
2. Did the parties agree to the terms of the contract?
3. Did the Defendant do all, or substantially all, of the significant things that the contract required it to do?
4. Was the Defendant excused from having to do all, or substantially all, of the significant things that the contract required it to do?
5. Did all the conditions that were required for the Defendant's performance occur?
6. Did the Defendant fail to do something that the contract required?
7. Was the Plaintiff harmed by the Defendant's breach of contract?
8. What is the economic loss for the Plaintiff? Itemize the list of the patients that constitute the basis for the Plaintiff's loss.

(D) Witnesses. All witnesses, including rebuttal witnesses, expected to be called to testify by plaintiff, except those who may be called for impeachment purposes as defined in NECivR 16.2(c) only, are:

Amy Lockman: Lincoln, Nebraska
Scott Stalnaker: Lincoln, Nebraska
Brent Corbin: Colorado Springs, Colorado
Amanda Ailes: Lincoln, Nebraska
Cory Dallam: Lincoln, Nebraska

Plaintiff may call the following witness:

Don Dunning: San Diego, California

All witnesses expected to be called to testify by defendant, except those who may be called for impeachment purposes as defined in NECivR 16.2(c) only, are:

Boris Grigorovich, Los Angeles, California

[List names and addresses of all persons who will testify in person only. Residential addresses must be listed by city and state only. The parties' witness lists shall identify those witnesses each party expects to be present and those witnesses the party may call if the need arises, and shall also identify, by placing an "(F)" following the name, any witness whose testimony is intended to be offered solely to establish foundation for an exhibit for which foundation has not been waived.]

It is understood that, except upon a showing of good cause, no witness whose name and address does not appear herein shall be permitted to testify over objection for any purpose except impeachment. A witness who has been identified as offering testimony solely to establish foundation for an exhibit shall not be permitted to testify for any other purpose, over objection, unless such witness has been disclosed pursuant to Federal Rule of Civil Procedure 26(a)(3). A witness appearing on any party's witness list may be called by any other party.

(E) Expert Witnesses' Qualifications. Experts to be called by plaintiff and their qualifications are:

No experts will be called.

(F) Voir Dire. Counsel have reviewed Federal Rule of Civil Procedure 47(a) and NECivR 47.2(a) and suggest the following with regard to the conduct of juror examination:

The parties have no special requests and agree to be bound the conduct outlined in Federal Rule of Civil Procedure 47(a) and NECivR 47.2(a).

(G) Number of Jurors. Counsel have reviewed Federal Rule of Civil Procedure 48 and NECivR 48.1 and suggest that this matter be tried to a jury composed of 12 members.

(H) Verdict. The parties do not stipulate to a less-than unanimous verdict.

(I) Briefs, Instructions, and Proposed Findings. Counsel have reviewed NECivR 39.2(a), 51.1(a), and 52.1, and suggest the following schedule for filing trial briefs, proposed jury instructions, and proposed findings of fact, as applicable:

No special requests

(J) Length of Trial: Counsel estimate the length of trial will be 3 days.

(K) Trial Date: **Trial is set for January 10-12, 2022.**

**MED-DEN FUNDING, LLC.,
Plaintiff**

**BY: /s/ Jason Mitchell
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Omaha, NE 68144
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(402) 554-4400
ATTORNEY FOR PLAINTIFF**

**BY: /S/ Armand Tinkerian
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Law Offices of Armand Tinkerian
135 South State College Blvd. Suite 200
Brea, CA 92821
Email: trialsandappeals@yahoo.com
(562) 245-6800
ATTORNEY FOR DEFENDANT**

Dated this 21st day of December, 2021.

BY THE COURT:



Michael D. Nelson
United States Magistrate Judge

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

MED-DEN FUNDING, LLC,

Plaintiff,

vs.

B GRIGOROVICH D.D.S., INC.,

Defendant.

8:20CV223

JOINT EXHIBIT LIST

Trial Date(s): January 10-12, 2022

| EXHIBIT NO. | | | | | | | | |
|--------------------|-----------|--------------|---|------------|-------------|-------------|---------------------|-------------|
| PLF | DF | 3 PTY | DESCRIPTION | OFF | OBJ | RCVD | NOT RCVD | DATE |
| 1 | | | Loan Application of Viktoriia Akademytska | | H, A | | | |
| 2 | | | Loan Application of Magaret Andriasian | | H, A | | | |
| 3 | | | Loan Application of Zanazan Bedrosian | | H, A | | | |
| 4 | | | Loan Application of Haraj Housepian | | H, A | | | |
| 5 | | | Loan Application of Andronik Hovhannisyan | | H, A | | | |
| 6 | | | Loan Application of Arman Martirosyan | | H, A | | | |
| 7 | | | Loan Application of Rafi George Shehirian | | H, A | | | |
| 8 | | | Loan Application of Yeranui Tutlyan | | H, A | | | |
| 9 | | | Loan Application of Oleh Yatsyshyn | | H, A | | | |
| 10 | | | Loan Application of Anastasiia Duniaka | | H, A | | | |
| 11 | | | Loan Application of Ruzanna Arakelyan | | R, H, A, | | | |
| 12 | | | Loan Application of John Arayi | | R, H, A, | | | |

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|----|--|--|--|--|----------|--|--|--|
| 13 | | | Loan Application of Alina Latypova | | R, H, A, | | | |
| 14 | | | Viktoriia Akademytska Loan Documents | | H, A | | | |
| 15 | | | Magaret Andriasian Loan Documents | | H, A | | | |
| 16 | | | Zanazan Bedrosian Loan Documents | | H, A | | | |
| 17 | | | Haraj Housepian Loan Documents | | H, A | | | |
| 18 | | | Andronik Hovhannisyan Loan Documents | | H, A | | | |
| 19 | | | Arman Martirosyan Loan Documents | | H, A | | | |
| 20 | | | Rafi George Shehirian Loan Documents | | H, A | | | |
| 21 | | | Yeranui Tutlyan Loan Documents | | H, A | | | |
| 22 | | | Oleh Yatsyshyn Loan Documents | | H, A | | | |
| 23 | | | Anastasiia Duniaka Loan Documents | | H, A | | | |
| 24 | | | Contract between Plaintiff and Defendant | | | | | |
| 25 | | | Financing Portal User Guide | | | | | |
| 26 | | | Provider Training Script | | | | | |
| 27 | | | Loan Disbursement Rosters | | R. H. A. | | | |
| 28 | | | Emails between Plaintiff and Defendant re Provider Training | | R | | | |
| 29 | | | Emails between Plaintiff and Defendant re applicant Alina Latypova | | R | | | |
| 30 | | | Contract between Plaintiff and Security First Bank – REDACTED COPY | | | | | |

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|----|-----|--|--|--|-------------|--|--|--|
| 31 | | | Security First Bank Reserve Fund Statement dated 1.1.2020 – REDACTED COPY | | H. A | | | |
| 32 | | | Security First Bank Reserve Fund Statement dated 2.2.2020 – REDACTED COPY | | H. A | | | |
| 33 | | | Security First Bank Fraud Charge-Off Statements: REDACTED COPY | | H. A | | | |
| 34 | | | Bust Out Fraud Memo | | H. A | | | |
| 35 | | | Phone call recording, Boris Grigorovich speaking with Amanda Ailes, from 6.5.2019 | | R, H, A, ND | | | |
| 36 | | | Phone call recording, Boris Grigorovich speaking with Amanda Ailes, from 6.10.2019 | | R, H, A, ND | | | |
| 37 | | | Phone call recording Corey Dallam speaking with Anastasiia Duniaka, from 6.25.2019 | | R, H, A, ND | | | |
| | 101 | | Medical records of Viktoriia Akademytska | | | | | |
| | 102 | | Medical records of Margaret Andriasian | | | | | |
| | 103 | | Medical records of Zanazan Bedrossian | | | | | |
| | 104 | | Medical records of Anastasia Duniaka | | | | | |
| | 105 | | Medical records of Haraj Housepian | | | | | |
| | 106 | | Medical records of Andronik Hovhannisyan | | | | | |
| | 107 | | Medical records of Arman Martirosyan | | | | | |
| | 108 | | Medical records of Rafi George Shehirian | | | | | |

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|--|-----|--|--------------------------------------|--|--|--|--|--|
| | 109 | | Medical records of Oleh Yatsyshyn | | | | | |
| | 110 | | Medical records of Yeranuhi Tutlyan | | | | | |
| | 111 | | Medical records of Ruzanna Arakelyan | | | | | |
| | 112 | | Medical records of John Arayi | | | | | |
| | 113 | | Medical records of Alina Latypova | | | | | |

OBJECTIONS**R: Relevancy****H: Hearsay****A: Authenticity****ND: Not Disclosed****O: Other (specify)****CERTIFICATE OF SERVICE**

I hereby certify that on December 21, 2021, I caused the above document to be filed in the Court's CM/ECF system which gave notification electronically upon all parties who filed an appearance or requested notice by electronic filing in this case, and I hereby certify that I have mailed by first class United States mail, postage prepaid, the documents to the following non-CM/ECF participants:

None.

Jason Mitchell, #26608